

1 what happened?

2 A So the meeting was held in
3 Philadelphia at the Comcast headquarters. Ken
4 Solomon was present. Bill Simon was present.
5 Patrick Wilson was present on behalf of Tennis
6 Channel.

7 On the Comcast side present was
8 myself, Allan Singer, Jenn Gaiski, Derek
9 Harrar, and Lee Goldsmith.

10 Q And what happens at the meeting?

11 A At the meeting, they present us --

12 Q Who is "they"?

13 A The Tennis Channel. The Tennis
14 Channel representatives, including Mr.
15 Solomon, present us a PowerPoint presentation
16 describing the changes that they had made to
17 The Tennis Channel and the improvements that
18 they had made to the programming of The Tennis
19 Channel.

20 Q And what are you remembering
21 they're saying to you on that?

22 A That they acquired some television

1 rights to the Grand Slam, Tennis Grand Slam
2 tournaments, that they were positioning --
3 that the network resonated with the female
4 viewers. It was a relatively typical, I would
5 say sales presentation.

6 Q When you say "typical sales
7 presentation," I mean the meeting wasn't a
8 typical meeting?

9 A That's correct.

10 Q So what do you mean by typical
11 sales presentation?

12 A Well, very commonly in discussions
13 with networks they will present, make a
14 PowerPoint presentation of the value of their
15 network in talking about the programming that
16 they have and the customers that they resonate
17 with and essentially establishing the value of
18 their proposition. It's very common in the
19 business.

20 Q Okay, and how long does that part
21 of the meeting take?

22 A I would say about an hour.

1 Q And then what happens?

2 A Then they made us a proposal.

3 They handed us a document.

4 Q Who is "they"?

5 A The Tennis Channel.

6 Q And how do they make the proposal?

7 A They handed us a sheet of paper.

8 Q One sheet of paper?

9 A Yes.

10 MR. CARROLL: And Your Honor, in
11 the white book, still behind that Tab C,
12 probably easiest to find this way by starting
13 at Tab D and working backwards.

14 JUDGE SIPPEL: Working backwards.

15 MR. CARROLL: And after you come
16 to two slips of blue paper, you'll come to
17 Comcast Exhibit 638 in the record already, I
18 believe, which is headed "Tennis Channel
19 Proposal to Comcast May 12, 2009."

20 JUDGE SIPPEL: I have 588.

21 MR. CARROLL: I probably should
22 have used more tabs.

1 JUDGE SIPPEL: I've got 638 now.

2 Yes.

3 BY MR. CARROLL:

4 Q Mr. Bond, do you have Comcast
5 Exhibit 638 in front of you?

6 A I do.

7 Q And can you please tell us what
8 this is?

9 A This is the proposal that I
10 referred to previously.

11 Q Now there's some handwriting on
12 this proposal. Whose handwriting is that?

13 A That's my handwriting.

14 Q When did you make -- when did you
15 put that handwriting on the document?

16 A In the meeting.

17 Q So is this the actual copy of the
18 actual proposal you physically received in the
19 meeting?

20 A Yes.

21 Q And first would you summarize for
22 us what did you understand this proposal was

1 proposing?

2 A There were two options on this
3 proposal. As I stated before, we were
4 carrying, Comcast was carrying The Tennis
5 Channel on the sports tier pretty broadly.
6 These two proposals, there was Option A and
7 Option B. Option A required us to move Tennis
8 Channel from the sports tier to the D1 level
9 of service which would have increased the
10 number of subscribers from about [REDACTED] to
11 about [REDACTED].

12 JUDGE SIPPEL: [REDACTED] to
13 [REDACTED].

14 THE WITNESS: [REDACTED] to [REDACTED]
15 [REDACTED] so about an [REDACTED] subscriber
16 increase. And in exchange for doing that,
17 they were offering a [REDACTED] percent greater volume
18 discount for distribution of the service to
19 more than [REDACTED] customers.

20 As you may recall in the
21 discussion earlier about the other MFN offer,
22 there was a [REDACTED] option and we had

1 selected that, so our deal, our existing,
2 Comcast's existing deal provided that at
3 distributions of [REDACTED] -- at [REDACTED] and
4 above, we would have a [REDACTED] percent discount.

5 So this increased the [REDACTED] percent,
6 [REDACTED] percent from [REDACTED] to [REDACTED] So it was a [REDACTED]
7 percent incremental discount per subscriber
8 for giving [REDACTED] incremental subs.

9 BY MR. CARROLL:

10 Q You say giving [REDACTED]
11 subscribers, what do you mean by that?

12 A By moving the service off of the
13 sports tier and putting it on the D1 level of
14 service, thus increasing the number of
15 subscribers [REDACTED].

16 Q And this option, and I think
17 you're referring to Option A, is that correct?

18 A I am.

19 Q Under this option, was it a volume
20 discount where you had discretion to go to
21 [REDACTED] subscribers or was it something
22 else?

1 A No, it was mandatory.

2 Q Okay.

3 A So we would be obligated to do it.

4 Q And was there another part of the
5 proposal as well?

6 A Yes. There was an Option B.

7 Q Please describe that.

8 A Option B would have required us to
9 move the service to what's denominated here on
10 the D0 level of service, but to go back to the
11 discussion we had earlier, that D0 level of
12 service is really that basic level of service
13 that I had described previously, the one that
14 ESPN is on, History, A&E, Golf, Versus,
15 etcetera. So that's the basic level of
16 service. So right now, that level of service
17 has about [REDACTED] customers on it.

18 At the time this was done, it
19 didn't have quite that many subscribers on it,
20 but it was -- it was approaching that number.
21 So this would have required an increase
22 ultimately from about [REDACTED] to [REDACTED]

1 subscribers.

2 And in exchange for that, they
3 were willing to give us an additional volume
4 discount of an additional [REDACTED] percent on top of
5 the [REDACTED] or [REDACTED] percent. So if I can restate
6 that because I threw a lot of numbers out
7 there, we had an existing deal that had a [REDACTED]
8 percent volume discount at [REDACTED] subs.
9 Tennis Channel was proposing if we gave them
10 [REDACTED] subs they would move the volume
11 discount from [REDACTED] to [REDACTED]. If we gave them an
12 incremental [REDACTED] subs, they would move
13 the volume discount from [REDACTED] to [REDACTED].

14 JUDGE SIPPEL: Let's see, you
15 start with [REDACTED].

16 THE WITNESS: Yes, sir.

17 JUDGE SIPPEL: I follow you. I
18 follow you.

19 BY MR. CARROLL:

20 Q If you could, please, walk us
21 through the handwriting notations you made at
22 the meeting. What are you writing, what are

1 the numbers that you're writing there?

2 A At the top, you'll see on Option A
3 I wrote the letters ■ percent. That was me
4 noting what our existing deal was. So we had
5 an existing volume discount of ■. So I was
6 drawing a distinction there between the ■ and
7 the ■. In other words, it was an incremental
8 ■ percent.

9 Q And how about the handwriting on
10 the bottom part of the page, explain that to
11 us, please?

12 A Yes, at the bottom part of the
13 page, I was essentially calculating or
14 starting to calculate the increased licensed
15 fees that this proposal would cost us because
16 although it had a discount on the per
17 subscriber fee because the subscribers were
18 dramatically increasing, the costs actually
19 were much, much higher than what we were
20 paying today. So the subscribers in Option A
21 for instance, the subscribers were increasing
22 by ■ percent and the license fee was being

1 reduced by [REDACTED] percent. So the actual checks
2 that we were going to write for The Tennis
3 Channel were much higher in Option A and then
4 much higher in Option B.

5 So what I was doing in the meeting
6 was focusing on the economics of this proposal
7 and starting to analyze what the cost was.

8 JUDGE SIPPEL: Which of the two is
9 the better deal?

10 THE WITNESS: Between A and B?

11 JUDGE SIPPEL: Yes.

12 THE WITNESS: Well, between these
13 two, I would say A is the better deal, but
14 neither one of them is better than our
15 existing

16 --

17 JUDGE SIPPEL: Yes, and just
18 explain for my benefit why is A better?

19 THE WITNESS: Okay, A is better
20 because A has a much lower cost. You'll see
21 that I was calculating in Option A that we
22 were going to pay [REDACTED] a year for

1 Tennis. We pay them currently, Comcast pays
2 them currently about [REDACTED], [REDACTED]
3 a year. So the payments to Tennis in Option
4 A were going to go from [REDACTED], up to
5 [REDACTED].

6 And in Option B, I was
7 calculating, I was a little wrong on this
8 number, I think, but I was calculating in the
9 meeting that it was going to go from [REDACTED]
10 [REDACTED] to [REDACTED] and these are all
11 annual numbers.

12 So over a [REDACTED] year period, Option A
13 would result in [REDACTED] in increased
14 costs. And Option B would have resulted in an
15 increase of [REDACTED] in increased costs.
16 So when you look at it that way, [REDACTED]
17 is better than [REDACTED], so that's why of
18 these two Option A would have been better, but
19 neither was as good as just our existing
20 contract which had no increased costs.

21 JUDGE SIPPEL: I'm trying to
22 think. Maybe I'm asking the wrong person of

1 this, but wouldn't that be evident to Mr.
2 Solomon? As I say, this is complicated to
3 talk about it here, but it's very basic
4 arithmetic.

5 THE WITNESS: It is. Did you say
6 evident?

7 JUDGE SIPPEL: Yes, I did say
8 evident.

9 THE WITNESS: I think it would be
10 evident to anyone. Your Honor, this was
11 really, the prior proposals, MFN proposals
12 that we had received involved a benefit and a
13 cost which we balanced and we declined it.
14 This was really not a benefit. This was a
15 demand. This was a demand for incremental
16 distribution with a small reduction in the
17 fees, but the actual costs going out to Tennis
18 Channel were dramatically increased.

19 JUDGE SIPPEL: Those numbers that
20 you're citing I understand where you're coming
21 from. I would be interested in what the other
22 side has to say about it. [REDACTED] for A

1 and again, that's license fees, approximation;
2 and [REDACTED] for B and -- okay, let's
3 leave that aside for the moment.

4 On the second proposal, however,
5 the one that was in 2007, you did get two
6 benefits out of that and you took them, right?

7 THE WITNESS: They were
8 independent, yes. All four of those options
9 were independent. We could select any one or
10 more of the four.

11 JUDGE SIPPEL: Independent of
12 what?

13 THE WITNESS: They were
14 independent of each other.

15 JUDGE SIPPEL: Well, I'm not so
16 sure I follow that. I mean I read -- it's
17 very evident what they are and you picked two
18 of them that were in your interest to pick
19 without any -- apparently without any
20 offsetting costs, no significant offsetting
21 costs.

22 THE WITNESS: In that instance,

1 those are beneficial to us.

2 JUDGE SIPPEL: That's what I'm
3 saying.

4 THE WITNESS: There was no cost.

5 JUDGE SIPPEL: Yes.

6 THE WITNESS: I see. I understand
7 what you're saying. Those were purely --

8 JUDGE SIPPEL: It's almost a
9 giveaway.

10 THE WITNESS: Exactly.

11 JUDGE SIPPEL: That was a gift.

12 THE WITNESS: Exactly.

13 JUDGE SIPPEL: But these are
14 different. You just explained how you see
15 them as having been different.

16 THE WITNESS: Yes.

17 JUDGE SIPPEL: And my question is
18 how does somebody walk in the room and make
19 this kind of an offer assumedly knowing full
20 well the numbers that you're coming up with.

21 THE WITNESS: If --

22 JUDGE SIPPEL: Go ahead.

1 THE WITNESS: I apologize, did I
2 interrupt?

3 JUDGE SIPPEL: No, you didn't.

4 THE WITNESS: If you look at the
5 letter they sent us in April right before this
6 meeting, it was a relatively contentious
7 letter.

8 JUDGE SIPPEL: Where is the
9 letter? Am I throwing you off on your direct?

10 MR. CARROLL: Not possible.

11 (Laughter.)

12 JUDGE SIPPEL: Well, what's wrong
13 with me?

14 (Laughter.)

15 MR. CARROLL: No, it's not
16 possible to throw me off.

17 JUDGE SIPPEL: Go ahead.

18 MR. CARROLL: May I approach, Your
19 Honor.

20 JUDGE SIPPEL: Please do.

21 MR. CARROLL: This is Comcast
22 Exhibit 592.

1 JUDGE SIPPEL: Thank you. And
2 while I'm looking at this, I've got to ask,
3 how are we going to handle this? I've got
4 questions about this as you're hearing them.
5 I mean I'm not holding anything back from you.
6 How am I going to get answers to them?

7 MR. PHILLIPS: Your Honor, one
8 thing you said in particular that we
9 particularly note is that there is another
10 side to this story.

11 JUDGE SIPPEL: Yes, of course
12 there is. There has to be.

13 MR. PHILLIPS: And I'm hopeful
14 that at least some of those answers will get
15 answered in my cross examination of Mr. Bond
16 and then to the extent that there are other
17 answers which I know there will be --

18 JUDGE SIPPEL: Questions.

19 MR. PHILLIPS: And other questions
20 and other answers, we will just endeavor to
21 try to find a way to address those and answer
22 them.

1 JUDGE SIPPEL: That's a fair,
2 that's a good lawyer-like assessment. We'll
3 figure it out when we get there.

4 (Laughter.)

5 All right, continue, please.

6 MR. CARROLL: Thank you, Your
7 Honor.

8 BY MR. CARROLL:

9 Q Mr. Bond, do you have Comcast
10 Exhibit 592 in front of you?

11 A I do.

12 Q Can you tell us what this is?

13 A So this was after my initial
14 discussions with Mr. Solomon in March. He
15 then sent this letter in April, April 22nd.

16 JUDGE SIPPEL: 2009.

17 THE WITNESS: Correct. And this
18 was the precursor to the May 12th meeting.

19 JUDGE SIPPEL: Weren't we in
20 litigation then?

21 THE WITNESS: No, that was the end
22 of 2009.

1 JUDGE SIPPEL: Your recollection
2 is probably better than mine. Okay, go ahead.

3 BY MR. CARROLL:

4 Q Do you remember when the NFL trial
5 was?

6 A Oh, yes. I thought he was
7 referring to -- the Judge was referring to
8 this litigation.

9 Q No. Tennis Channel was not in
10 litigation.

11 A Yes. I'm sorry.

12 Q So explain to us your reaction to
13 this letter and you had characterized this
14 letter previously. Help us understand that
15 characterization.

16 A It was a relatively aggressive
17 letter. It simply said that --

18 JUDGE SIPPEL: Point to where you
19 think it's aggressive, just for
20 characterization. Where do you find that to
21 be stated here?

22 THE WITNESS: If you look at the

1 second paragraph --

2 JUDGE SIPPEL: Yes, sir. "Our
3 last discussion"?

4 THE WITNESS: Yes. If you look at
5 the end of that page it says "As you know, our
6 view is that this needed tiering adjustment
7 would fulfill both the spirit and substance of
8 our original agreement which has simply not
9 been lived up to on Comcast's side of the
10 bargain and would reflect the currently
11 significant elevated quality and performance
12 of The Tennis Channel service."

13 JUDGE SIPPEL: Okay. I see your
14 point.

15 THE WITNESS: And then if you'll
16 look in the next paragraph, Your Honor, the
17 last sentence. Do you see that sentence that
18 says "If we do not find"?

19 JUDGE SIPPEL: I do.

20 THE WITNESS: "If we do not find a
21 means to move forward in the meeting, then
22 Tennis Channel will need to weigh all options

1 available to us so that we can accomplish our
2 critical and important goal of getting us
3 world-class and high-demand content to a much
4 larger audience on behalf of the game, the
5 service, and our investors."

6 JUDGE SIPPEL: Well, reading that,
7 what did it mean to you?

8 THE WITNESS: It seemed to be a
9 threat of litigation to me.

10 JUDGE SIPPEL: Which is almost par
11 for the course. Okay. That's not a fair
12 comment, but anyway, go ahead.

13 BY MR. CARROLL:

14 Q And this was the letter you were
15 referring to that was the precursor for the
16 May 2009 meeting you've been discussing?

17 A Yes.

18 Q Let me go back to the May meeting
19 itself. So how does the meeting itself end?
20 Do you give a response at the meeting to the
21 proposal?

22 A No, no. We thanked them for the

1 presentation and said we would get back to
2 them.

3 Q And then what happened? This is
4 now -- we're after the May 2009 meeting.
5 You've said you're going to get back to them,
6 so take us through this part of the process,
7 what happens?

8 A So I did two things. I asked
9 Jennifer Gaiski to run the numbers to get --
10 to do the math that I was doing very quickly
11 in the room, but I wanted to see what the
12 exact numbers were.

13 Q You didn't trust your handwritten
14 calculations at the meeting itself?

15 A No, it was very casual. And then
16 the second thing I asked Ms. Gaiski to do was
17 to go back again, I had asked her in March and
18 I had asked her on prior occasions to talk to
19 field representatives to find out if there was
20 any interest in increased distribution of The
21 Tennis Channel. And the reason why I asked
22 her to do that is she was my department's

1 primary interface with the field organization
 2 in terms of managing the process of the
 3 addition of channels, of managing channel
 4 lineups in the various cable systems. So she
 5 was responsible for that process and she was
 6 in constant communication with the field
 7 representative, so I asked her in the context
 8 of that to canvas field representatives to see
 9 if there were any interest.

10 Q When you say field, you spoke
 11 previously with His Honor about systems and
 12 regions and divisions?

13 A That would be the field.

14 Q That's what you mean by --

15 A That's what I meant by that.

16 JUDGE SIPPEL: Were you thinking
 17 of a particular level in the field?

18 THE WITNESS: I was thinking of
 19 the D1 level.

20 JUDGE SIPPEL: The D1 level as it
 21 was perceived by systems division or regional?

22 THE WITNESS: How she would have

1 handled that, she had periodic calls with
2 division representatives and the division
3 representatives represented the interest of
4 the various systems and on those calls she
5 would pose this question of the interest in
6 this distribution and then the division
7 representatives would then in the context of
8 their management of the various regions and
9 what not find out if there was interest.

10 BY MR. CARROLL:

11 Q Did that happen, what you're just
12 describing?

13 A Yes.

14 Q How do you know it happened?

15 A Because she reported back to me
16 that there was not interest.

17 Q Not interest in what?

18 A In moving The Tennis Channel to
19 the sports tier.

20 Q And when did she report that back
21 to you? And she is Ms. Gaiski?

22 A She is Ms. Gaiski.

1 Q When did Ms. Gaiski report that
2 back to you?

3 A It would have been probably within
4 a week or two after the May 12th.

5 Q And the other -- and how did she
6 report it back to you? Did you have a
7 discussion with her or something else?

8 A Discussion.

9 Q And the other piece that you
10 identified you asked to have happen was to
11 have Ms. Gaiski, I think the phrase you used
12 was "run the numbers"?

13 A Yes.

14 Q Is that right?

15 A Yes.

16 Q And did that happen?

17 A Yes.

18 Q And how do you know that happened?

19 A Because she provided me financial
20 analysis.

21 Q And if you flip over to the next
22 document right after the blue sheet, Your

1 Honor, and the same white book.

2 JUDGE SIPPEL: Okay.

3 MR. CARROLL: Flip past the next
4 blue divider, there should be Comcast Exhibit
5 588 there, Your Honor?

6 JUDGE SIPPEL: What is the
7 document?

8 MR. CARROLL: It looks like a
9 bunch of numbers on a spreadsheet. It's
10 behind Tab C. Almost at the end of Tab C.

11 JUDGE SIPPEL: I've got
12 handwritten notes.

13 MR. CARROLL: Just before those, I
14 think.

15 JUDGE SIPPEL: It's got to be
16 there. Here it comes. I've got it. I'm
17 getting it. Now I have it.

18 MR. CARROLL: A lot of pages.

19 JUDGE SIPPEL: No, it's not too
20 many pages, it's just they stick together.

21 MR. CARROLL: This should be
22 Comcast Exhibit 588.

1 BY MR. CARROLL:

2 Q Do you have that, Mr. Bond?

3 A I do.

4 Q Can you identify this for us?

5 A This is the financial analysis I
6 referred to that was prepared by Ms. Gaiski.

7 Q And we don't want to get in, I
8 don't think we need to get into every line of
9 this, but could you just summarize the bottom
10 line of this financial analysis for His Honor?

11 A There are three computations on
12 this page. The first one says current
13 contract. That's what our current contract
14 allows, i.e., the sports tier and our existing
15 subscriber levels. The second is Option A,
16 and as you see it says moved to B1. It's a
17 little hard to read. And then the third line,
18 the third category says Option B move to
19 digital starter.

20 JUDGE SIPPEL: Digital what?

21 THE WITNESS: Digital starter
22 which was also the same as D0. I referred to